

4415.413-70

4415.413-70 Policy.

It is FEMA policy to use information contained in proposals only for evaluation purposes unless information (a) is generally available to the public, (b) is already the property of the Government, (c) is already available to the Government with unrestricted use rights, or (d) is or has been made available to the Government without restriction.

4415.413-71 Release of information during the solicitation phase.

No information shall be released during the solicitation phase, except as follows: Each solicitation for a negotiated acquisition shall name an individual in the contracting office to respond to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions whether of a procedural or substantive nature shall be directed to that individual. No one else shall exchange comments with offerors or potential offerors. Questions requiring clarification of substantive portions of the solicitation shall be answered by amendment of the solicitation. A copy of the amendment shall be sent to each recipient of the solicitation.

4415.413-72 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) All but one copy of each unsuccessful proposal shall be destroyed as soon as practicable after contract award. The one remaining copy of each shall be retained in the official contract file.

(b) Unsuccessful proposals shall not be used for purposes other than internal reference unless (1) written permission has been obtained from the offeror or (2) the proposal expressly states that unrestricted use is given to the Government regardless of its success in the competition.

Subpart 4415.5—Unsolicited Proposals

4415.500 Scope of subpart.

This subpart sets forth procedures for controlling the receipt, evaluation, and

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timely disposition of unsolicited proposals.

4415.505-1 Content of unsolicited proposals.

FEMA's Appropriation Act (Public Law 100-404, Section 407) requires the contractor to cost share if a research contract results from an unsolicited proposal. This requirement may be waived only when it would not be equitable for the Government to require cost sharing. To waive, (a) the offeror must certify in writing to the contracting officer that it has no commercial, production, educational, or service activities on which to use the results of the research and that it has no means of recovering any cost on such projects; and (b) the contracting officer must make a written determination that there is no measurable gain to the performing organization and no mutuality of interest. This determination shall be placed in the contract file. (See 4416.303.)

[50 FR 31320, Aug. 1, 1985, as amended at 55 FR 28207, July 10, 1990]

4415.505-2 Unsolicited renewal proposals.

Renewal proposals, i.e., those for the extension or augmentation of current contracts, are subject to the same FAR and FEMA regulations, including the requirements of the Competition in Contracting Act, as are proposals for new contracts.

[55 FR 28207, July 10, 1990]

4415.506 Agency procedures.

(a) The Office of Acquisition Management is the point of contact for the receipt, acknowledgment, and handling of unsolicited proposals. Unsolicited proposals and requests for additional information regarding their preparation shall be submitted to: Federal Emergency Management Agency, Office of Acquisition Management, Policy & Evaluation Division, 500 C Street SW, room 726, Washington, DC 20472.

(b) Unsolicited proposals submitted to FEMA program, regional or field offices, or misdirected proposals, shall be immediately forwarded by recipients to the Headquarters Office of Acquisition Management.

(c) Unsolicited proposals shall be submitted in an original and five copies at least six months in advance of the date the offeror desires to begin work so that there will be enough time to evaluate the proposal and negotiate a contract.

[50 FR 31320, Aug. 1, 1985, as amended at 55 FR 28207, July 10, 1990]

4415.506-1 Receipt and initial review.

(a) The Office of Acquisition Management shall acknowledge an unsolicited proposal. Simultaneously, copies of the proposal shall be sent to the appropriate program offices for evaluation.

(b) *Information Requirements.* The Office of Acquisition Management shall keep records of unsolicited proposals received and shall provide prompt status information to requestors. The records shall include, as a minimum, the number of unsolicited proposals received, funded, and rejected during the fiscal year, the identity of the proposers and the office to which each was referred. These numbers shall be broken out by source (large business, small business, university, or nonprofit institutions).

[50 FR 31320, Aug. 1, 1985, as amended at 55 FR 28207, July 10, 1990]

Subpart 4415.6—Source Selection

SOURCE: 55 FR 28207, July 10, 1990, unless otherwise noted.

4415.612 Formal source selection.

4415.612-70 Scope.

(a) Formal source selection procedures shall apply to competitively negotiated acquisition when the estimated cost exceeds \$25,000.

(b) Formal source selection procedures do not apply to the acquisition of Architect-Engineer Services, acquisition from other Government agencies (including State and local), or any other acquisition which is specifically exempted by the Director.

4415.612-71 Key participants.

(a) A proposal evaluation team shall be formed to conduct the technical evaluation of proposals. For acquisitions estimated to cost \$10 million or

less, the team shall be called the Technical Evaluation Panel (TEP) and shall consist of at least three (3) voting members. For acquisitions in excess of \$10 million, or those whose estimated cost does not exceed \$10 million, but the selected source is likely to receive funding for future phase(s) of the same project, and the aggregate amount of such funding (including the current acquisition) is estimated to exceed \$10 million, the team shall be called the Source Evaluation Board (SEB) and shall consist of at least five (5) voting members.

(b) The Source Selection Official or the Contracting Officer, depending upon the dollar amount of the proposed award and any anticipated additions to it, shall select a source for contract award. For acquisitions estimated to exceed \$10 million, the program head, i.e., Associate Director/Administrator, of the acquiring office shall be the Source Selection Official. For acquisitions estimated to cost \$10 million or less, the Contracting Officer shall be the Source Selection Official.

Subpart 4415.8—Price Negotiation

4415.803 General.

When all efforts to get a contractor to agree to a reasonable price or fee have failed, the contracting officer shall refer the matter to the head of the contracting activity.

Subpart 4415.10—Preaward, Award and Postaward Notifications, Protests, and Mistakes

4415.1003 Debriefing of unsuccessful offerors.

Any unsuccessful offeror may write for a debriefing within two months after contract award. The contracting officer shall provide the debriefing.

PART 4416—TYPES OF CONTRACTS

Subpart 4416.3—Cost-Reimbursement Contracts

Sec.

4416.303 Cost-sharing contracts.